

(2008) 04 JH CK 0006
In the Jharkhand High Court

Dr. S.K. Mishra

APPELLANT

Vs

Tata Iron and Steel Co. Ltd.

RESPONDENT

Date of Decision : 04-04-2008

Acts Referred:

Bihar Shops and Establishments Act, 1953 — Section 26(2)

Citation : (2008) 3 JCR 708

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Judgement

Narendra Nath Tiwari, J.—The petitioner was a doctor employed in Tata Main Hospital and served as such for about 14 years. The

petitioner complained that the Management forced him to write resignation order on 3rd July, 1995. The petitioner reported the matter to the

Deputy Labour Commissioner by his representation dated 4th July, 1995. He also made a complaint u/s 26(2) of the Bihar Shops and

Establishment Act, 1953 (hereinafter referred to as the "Act") and prayed for setting aside the said order, which is said to be termination order, but

in the garb of resignation. He also claimed full back wages and other financial benefits with interest and cost.

2. The Presiding Officer, Labour Court. Jamshedpur heard the parties. The evidences were led on behalf of both the parties. By order dated 20th

June, 2007, learned Presiding Officer dismissed the petitioner's complaint, holding, inter alia, that the complainant/petitioner could not be able to

establish that the petitioner was illegally forced to resign and acceptance of petitioner's resignation was in the garb of termination from service in

violation of the legal provision and the same is illegal and liable to be quashed.

3. Learned Counsel appearing on behalf of the petitioner submitted that learned Presiding Officer did not consider the points in objection raised by

the petitioner before the Deputy Labour Commissioner dated 4th July, 1995. The petitioner had not tendered resignation. The resignation letter

was obtained by force. The same was in garb of force and illegal termination. Learned Counsel submitted that the said letter was produced in

evidence and is marked as Ext. 1 on his behalf. Learned Presiding Officer, however, has discussed all other evidences except Ext. 1, which is the

crucial documentary evidence and the basis of the claim of the petitioner.

4. On behalf of the respondent-Company, it has been contended, inter alia, that an employee of the Company is expected to be loyal and devoted.

The petitioner, on the contrary, has concocted a false allegation that he was coerced to resign. The respondents have denied the allegation of threat

and coercion or compelling the petitioner to resign or anything done in violation of standing order. Learned Counsel submitted that the finding of

learned Labour Court is legal and sound and based on evidence and material on record. He further submitted that the said letter addressed to the

Deputy Labour Commissioner (Ext. 1) has no relevance in the context of the matter.

5. I have heard learned Counsel for the parties and considered the facts and materials on record.

6. The petitioner has assailed the impugned order on the ground that the letter, Ext. 1, sent to the Deputy Labour Commissioner would go to prove

that the alleged resignation letter was not a voluntary written one, rather the same was obtained by coercing the petitioner. The same, as a matter of

fact, was forced termination of the petitioner contrary to the provisions of law. But the said Ext. 1, which was the main evidence and the basis of

the petitioner's claim has not been discussed and considered by learned Presiding Officer. The order is, thus, vitiated due to non-consideration of

the said crucial evidence. In this writ petition, categorical ground has been taken by the petitioner for non-consideration and discussion of the said

evidence of Ext. which according to him, is crucial document to establish that the so-called resignation letter was not voluntarily and it was in the

garb of termination letter under the provisions of the said Act.

7. On perusal of the impugned order, I find substance in the said submission. I

do not find any consideration and discussion of said Ext. 1, which, according to the petitioner is crucial documentary evidence in support of his claim. The impugned judgment/order of the learned Labour Court, therefore, suffers from the vices of non-consideration of the petitioner's evidence, Ext. 1. For the said reason, the order cannot sustain and is hereby quashed. This writ petition is allowed. The matter is remitted to the Labour Court for fresh consideration and disposal in accordance with law.